

**Amend Section 6593.5 of the Revenue and Taxation Code to provide the Board with the authority to grant relief of interest imposed due to an audit determination, provided the relief is granted due to an unreasonable error or delay by an employee of the Board.**

**Source: Taxpayers' Rights Advocate's Office**

Under existing law, tax payments made after the due date are subject to interest. Current law allows the Board to relieve the taxpayer of interest when the reason for late payment is due to a disaster. Additionally, the Board is authorized to relieve interest when the reason for late payment is due to an unreasonable error or delay by an employee of the Board acting in his or her official capacity.

The provision to allow the Board to grant relief from interest was added by Assembly Bill 821 (Ch. 612, Statutes of 1998). The purpose of this Board-sponsored bill was to address situations where interest was imposed upon the taxpayer due to unreasonable errors or delays by Board employees. However, due to an oversight in drafting the language, the bill did not address situations where interest is imposed due to an audit determination or a late prepayment of sales tax on diesel or other fuels.

This proposal would make a technical amendment to Section 6593.5 to grant the Board the authority to grant relief of interest in all applicable instances, including an audit determination and late prepayment of sales tax on diesel and other fuels, provided the reason for late payment is due to unreasonable error or delay by an employee of the Board.

Additionally, this proposal should include amendments to the appropriate sections affecting Special Taxes and Fees, Private Railroad Car Tax, and Timber Yield Tax.

*Section 6593.5 of the Revenue and Taxation Code is amended to read:*

6593.5 (a) The board, in its discretion, may relieve all or any part of the interest imposed on a person by ~~Sections 6480.4, 6480.8, 6513, 6591, and 6592.5~~ this part under the following circumstances:

- (1) Where the failure to pay tax is due in whole or in part to an unreasonable error or delay by an employee of the board acting in his or her official capacity.
- (2) Where failure to pay use tax on a vehicle or vessel registered with the Department of Motor Vehicles was the direct result of an error by the Department of Motor Vehicles in calculating the use tax.

(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the taxpayer.

(c) Any person seeking relief under this section shall file with the board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information, which the board may require.

(d) The board may grant relief only for interest imposed on tax liabilities that arise during taxable periods commencing on or after July 1, 1999.